

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:19-HC-2059-FL

GERALD BRYANT,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
STATE OF NORTH CAROLINA, and N.C.)	
DEPARTMENT OF PUBLIC SAFETY,)	
)	
Respondents.)	

Petitioner, a state inmate proceeding pro se, petitions this court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter is before the court for an initial review pursuant to Rule 4 of the Rules Governing § 2254 cases in the United States District Courts.


Petitioner previously has filed § 2254 habeas petition challenging the same state judgment of conviction he seeks to have set aside in the instant petition. See Bryant v. Hines, No. 5:12-HC-2061-F (E.D.N.C. Feb. 4, 2013) (dismissing habeas petition with prejudice). Accordingly, the instant petition is successive.

Petitioner must seek authorization from the United States Court of Appeals for the Fourth Circuit to file a second or successive § 2254 petition. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not received such authorization and the court therefore does not have jurisdiction to review the petition. See United States v. Winestock, 340 F.3d 200, 205 (4th Cir. 2003), abrogated in part on other grounds by United States v. McRae, 793 F.3d 392 (4th Cir 2015). Accordingly, the court dismisses the instant petition without prejudice to allow petitioner to seek authorization from the Fourth Circuit to file this action.

After reviewing the claims presented in the habeas petition in light of the applicable standard, the court finds reasonable jurists would not find the court's treatment of any of petitioner's claims debatable or wrong and none of the issues are adequate to deserve encouragement to proceed further. Accordingly, the court denies a certificate of appealability.

Based on the foregoing, the court DISMISSES petitioner's § 2254 petition without prejudice and DENIES a certificate of appealability. The clerk is DIRECTED to close this case.

SO ORDERED, this the 14th day of November, 2019.


LOUISE W. FLANAGAN
United States District Judge